

MAY 19, 2008

**MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT**

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

KIRK RAAB,)
)
Plaintiff,)
)
-vs-) No.
)
COUNTY OF JO DAVIESS, JO DAVIESS)
COUNTY SHERIFF'S OFFICE, SHERIFF)
LEO HEFEL in his official capacity as)
Sheriff of Jo Daviess County and his)
Individual capacity, CHIEF DEPUTY)
COLIN FULRATH, in his official capacity)
As Chief Deputy and his individual capacity,)
DONALD SCHWEIHS, in his official)
Capacity as County of Jo Daviess Public)
Defender and in his individual capacity,)
)
Defendants.)

08 C 50087

**JUDGE REINHARD
MAGISTRATE JUDGE MAHONEY**

PLAINTIFF KIRK RAAB'S MOTION FOR PROTECTIVE ORDER

Plaintiff, KIRK RAAB, by and through his attorneys, DOLAN LAW OFFICES, P.C., pursuant to Federal Rules of Civil Procedure 26 (b) and (c), respectfully moves this Honorable Court to grant his motion for Protective Order for all computers owned and operated by any defendant, and states the following in support :

1. This matter was filed on May 19, 2008.
2. Plaintiff Kirk Raab is a Sergeant in the Jo Daviess County Sheriff's Office.
3. Numerous electronic communications between Sergeant Raab and employees of the Jo Daviess County Sheriff's Office have occurred since Defendant Sheriff Hefel has taken office, including between Sergeant Raab and Defendants Hefel

and Fulrath. Upon information and belief, a number of electronic communications and other communications have also taken place between Defendants and other persons as it relates to Sergeant Raab's employment at the Jo Daviess County Sheriff's Office.

4. Plaintiff moves this court to enter a protective order and preserve all computers and hard drives within the Jo Daviess County Sheriff's Office, in particular the computers of Defendant Leo Hefel and Colin Fulrath, the computers owned by Defendant Donald Schweihs either at his personal office and/or at the Jo Daviess County Public Defender's Office, and any computers within the County of Jo Daviess which pertain to the employment of Kirk Raab, so that any computers may not be destroyed, sold, replaced and/or altered in any way and all documents and/or electronic communications, including e-mails, both personal and official, be preserved until the duration of this case. Further, should any computer be destroyed, sold, replaced, and/or altered in any manner since December, 2006, Defendants shall notify Plaintiff's counsel immediately upon receipt of the protective order.

5. Plaintiff Kirk Raab has brought this motion for good cause and not for the purpose of delay, but in order to afford him a fair opportunity to prosecute his case and avoid any spoliation of evidence and/or destruction of any computers which may contain information regarding Sergeant Raab's employment.

6. No prejudice to Defendants will occur if this Court grants Sergeant Raab's Motion for Protective Order as the protective order is a reasonable request.

WHEREFORE, Plaintiff, KIRK RAAB, for the reasons stated above, respectfully requests this Honorable Court to enter an order granting his Motion for Protective Order and order all defendants to preserve the following:

- 1) All computers be preserved at Jo Daviess County, Jo Daviess County Sheriff's Office, including those of Defendant Hefel and Defendant Fulrath, and the personal computer of Donald Schweihs and his official computer at the Jo Daviess County Public Defender's Office, including the hard drives of the computers;
- 2) All documents and electronic communications including e-mails, both personal and/or official e-mails between any of the parties, including any written communication, documents, and/or electronic communications including e-mails, both personal and official, and instant messages
- 3) Any and all documents and electronic communications as it relates to Sergeant Kirk Raab, including written notes, memorandums, official orders, e-mail communications between any party and/or any other persons, personnel file, and/or any other form of written or electronic communication.
- 4) Order any defendant to notify Plaintiff immediately regarding any computers which have been destroyed, removed, replaced, and/or altered in any manner since Defendant Hefel took office at the Jo Daviess County Sheriff's Office.

Respectfully Submitted:

By: /s/ Martin A. Dolan
One of the Attorneys for Plaintiff
Kirk Raab

DOLAN LAW OFFICES, P.C.
10 South LaSalle Street
Suite 3712
Chicago, Illinois 60603
(312) 676-7600
ARDC #: 06198500

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As Chief Deputy and his individual capacity,))		
DONALD SCHWEIHS, in his official)		
Capacity as County of Jo Daviess Public)		
Defender and in his individual capacity,)		
)	
Defendants.)	

08 C 50087**JUDGE REINHARD
MAGISTRATE JUDGE MAHONEY****NOTICE OF MOTION**

To: County of Jo Daviess, c/o County Clerk Jean Dimke, Jo Daviess County
 Courthouse, Room 108, 330 North Bench Street, Galena, Illinois 61036
 Jo Daviess County Sheriff's Office, c/o Jo Daviess County Sheriff Leo Hefel, Jo
 Daviess County Public Safety Bldg, 330 North Bench Street, Galena, IL 61036
 Sheriff Leo Hefel, Jo Daviess County Public Safety Building, 330 North Bench
 Street, Galena, Illinois 61036
 Chief Deputy Colin Fulrath, Jo Daviess County Public Safety Building, 330 North
 Bench Street, Galena, Illinois 61036
 Donald Schweih, Jo Daviess County Public Defender, 609 Gear Street, Galena,
 Illinois 62935

PLEASE TAKE NOTICE that on the ____ day of _____, 2008 at _____
a.m. we shall appear before the Honorable Judge _____, or whomever maybe
 sitting in his stead in Room _____ of the United States District Court for the Northern
 District of Illinois, Western Division, 211 South Court Street, Rockford, Illinois 61101,
 and present ***Plaintiff's Motion for Protective Order***, a copy of which is attached hereto
 and hereby served upon you.

 /s/ Myco T. Dang
 By one of Defendant's Attorneys

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that she served the above mentioned document, referred to herein by sending a copy via first class mail to the above named attorney at the addresses indicated above on the 19th day of May, 2008 before the hour of 5:00 p.m.

_____/s/ Myco T. Dang_____
One of Defendant's attorneys

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